

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

WELLS FARGO BANK, N.A.,	)	
	)	Case No.:
Plaintiff,	)	
	)	Claim amount: \$202,843.84, plus
	)	pre-judgment interest, attorneys' fees
SMITH & COMPANY, INC.,	)	and costs
	)	
Defendant.	)	

**COMPLAINT**

NOW COMES Plaintiff WELLS FARGO BANK, N.A. ("Wells Fargo"), by and through its counsel, and for its Complaint against Defendant SMITH & COMPANY, INC. (the Defendant"), states as follows:

**PARTIES**

1. Wells Fargo is a national bank registered under the laws of the United States with its main office located in Sioux Falls, South Dakota.

2. Defendant is a Florida corporation with its principal place of business located at 1940 Southeast Port Saint Lucie Boulevard, Port Saint Lucie, FL 34952.

**JURISDICTION**

3. Jurisdiction is appropriate in this Court pursuant to 28 U.S.C. § 1332, as the parties are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391, because a substantial part of the events or omissions giving rise to Wells Fargo's claims occurred in this

district. Further, the contracts at issue in this case between Wells Fargo and Defendant provide that this Court is the appropriate venue for suit. See Exhibit 1, ¶ 14; Exhibit 2, ¶ 8.

### **BACKGROUND**

5. On or about April 23, 2018, Wells Fargo, as lessor, and Defendant, as lessee, entered into Lease Agreement – \$1 Purchase Option No. XXX-XXXX643-001 (the “First Contract”), for the financing of certain equipment more particularly set forth therein. A true and correct copy of the First Contract is attached hereto as Exhibit 1.

6. Under the First Contract, the Defendant agreed to make 36 monthly payments of \$9,211.33 each.

7. On or about May 10, 2018, Wells Fargo, as secured party, and Defendant, as debtor, entered into Single Sided Equipment Finance Agreement No. XXX-XXXX643-002 (the “Second Contract”), for the financing of certain equipment more particularly set forth therein. A true and correct copy of the Second Contract is attached hereto as Exhibit 2.

8. Under the Second Contract, the Defendant agreed to make 36 monthly payments of \$836.82 each.

9. The Defendant failed to make the payment due on February 15, 2019 under the First Contract, and all payments due thereafter.

10. The Defendant failed to make the payment due on February 15, 2019 under the Second Contract, and all payments due thereafter.

11. Failure to make timely payments is an Event of Default under the First Contract and the Second Contract (the collectively, the “Contracts”). See Exhibit 1, ¶ 7; Exhibit 2, ¶ 7.

12. Upon the occurrence of an Event of Default, Wells Fargo is entitled to seek the balance owed under the Contracts, return of the equipment, repossession costs for the equipment, late fees, and attorney's fees and court costs. See Exhibit 1, ¶ 7; Exhibit 2, ¶ 7. Wells Fargo is further entitled to seek prejudgment interest at the rate of five percent (5%) per annum pursuant to 815 ILCS § 205/2.

13. The remaining balance due to Wells Fargo under the First Contract is \$181,159.76.

14. The remaining balance due to Wells Fargo under the Second Contract is \$21,684.08.

15. The total remaining balance due to Wells Fargo under the Contracts is \$202,843.84.

16. Wells Fargo demanded payment from the Defendant pursuant to the Contracts, but the Defendant has failed or refused to make payment.

17. Wells Fargo has fulfilled all of its obligations under the Contracts.

**COUNT I - BREACH OF CONTRACT AGAINST SMITH & COMPANY, INC.**

18. Wells Fargo re-alleges and re-asserts Paragraphs 1 through 17 of its Complaint as though fully set forth herein.

19. The Defendant defaulted under the Contracts by failing and refusing to make payments when due. Therefore, the Defendant is indebted to Wells Fargo in the amount of \$202,843.84 under the Contracts, plus late fees, prejudgment interest at the rate of five percent (5%) per annum pursuant to 815 ILCS § 205/2, and attorneys' fees and costs.

WHEREFORE, Plaintiff WELLS FARGO BANK, N.A. respectfully requests that the Court enter judgment in its favor and against Defendant SMITH & COMPANY, INC. in the amount of \$202,843.84, plus late fees, prejudgment interest at the rate of five percent (5%) per annum pursuant to 815 ILCS § 205/2, and attorneys' fees and costs, as well as all other such relief which this Court deems just.

WELLS FARGO BANK, N.A.,

By: /s/ Debra Devassy Babu

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